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Attorney for Defendant Nutrition 53, Inc.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

THE UNITED STATES OF AMERICA

Plaintiff,

v.

WILLIAM T. ROMANOWSKI, a.k.a. BILL
ROMANOWSKI, JULIE I. ROMANOWSKI
and NUTRITION 53 INC.,

Defendants.

Case No.: 4:23-cv-03003-DMR

ANSWER TO COMPLAINT
JURY TRIAL DEMANDED

Defendant Nutrition 53, Inc. responds to the allegations contained in the
unverified Complaint filed to commence this Action (“Complaint”) as follows:

1. Paragraph 1 of the Complaint contains a statement to which no response is
required.

2. Defendant does not possess sufficient knowledge or information to admit or
deny the allegations of paragraph 2 of the Complaint and on that basis denies those
allegations.

3. Defendant denies the allegations of paragraph 3 of the Complaint.

1 4. Defendant does not possess sufficient knowledge or information to admit or
2 deny the allegations of paragraph 4 of the Complaint as to where the tax liabilities arose
3 or whether the Romanowskis have tax liabilities. Defendant denies the remaining
4 allegation contained in this paragraph 4 of the Complaint.

5
6 5. Defendant does not possess sufficient knowledge or information to admit or
7 deny the allegations of paragraph 5 of the Complaint and on that basis denies those
8 allegations.

9
10 6. Defendant admits that William Romanowski is a named defendant in this
11 Complaint. Except as specifically admitted, Defendant does not possess sufficient
12 knowledge or information to admit or deny the allegations of paragraph 6 of the
13 Complaint and on that basis denies those allegations.

14
15 7. Defendant admits that Julie Romanowski is a named defendant in this
16 Complaint. Except as specifically admitted, Defendant does not possess sufficient
17 knowledge or information to admit or deny the allegations of paragraph 7 of the
18 Complaint and on that basis denies those allegations.

19
20 8. Defendant admits the allegations contained in this paragraph 8.

21
22 9. Defendant admits that Romanowskis are named defendants in this
23 Complaint. Except as specifically admitted, Defendant does not possess sufficient
24 knowledge or information to admit or deny the allegations of paragraph 9 of the
25 Complaint and on that basis denies those allegations.

26
27 10. Defendant denies the allegations contained in this paragraph 10.

1 11. Defendant denies the allegations contained in this paragraph 11.

2 12. Defendant denies the allegations contained in this paragraph 12.

3 13. Defendant admits the allegations contained in this paragraph 13.

4 14. Defendant admits the allegations contained in this paragraph 14.

5 15. Defendant denies the allegations contained in this paragraph 15.

6 16. Defendant denies the allegations contained in this paragraph 16.

7 17. Defendant denies the allegations contained in this paragraph 17.

8 18. Defendant admits the allegations contained in this paragraph 18.

9 19. Defendant admits the allegations contained in this paragraph 19.

10 20. Defendant admits the allegations contained in this paragraph 20.

11 21. Defendant admits the allegations contained in this paragraph 21.

12 22. Defendant does not possess sufficient knowledge or information to admit or

13 deny the allegations of paragraph 22 of the Complaint and on that basis denies those
14 allegations.

15 23. Defendant does not possess sufficient knowledge or information to admit or
16 deny the allegations of paragraph 23 of the Complaint and on that basis denies those
17 allegations.

18 24. Defendant does not possess sufficient knowledge or information to admit or
19 deny the allegations of paragraph 24 of the Complaint and on that basis denies those
20 allegations.

1 25. Defendant does not possess sufficient knowledge or information to admit or
2 deny the allegations of paragraph 25 of the Complaint and on that basis denies those
3 allegations.
4

5 26. Defendant does not possess sufficient knowledge or information to admit or
6 deny the allegations of paragraph 26 of the Complaint and on that basis denies those
7 allegations.
8

9 27. Defendant does not possess sufficient knowledge or information to admit or
10 deny the allegations of paragraph 27 of the Complaint and on that basis denies those
11 allegations.
12

13 28. Defendant does not possess sufficient knowledge or information to admit or
14 deny the allegations of paragraph 28 of the Complaint and on that basis denies those
15 allegations.
16

17 29. Defendant does not possess sufficient knowledge or information to admit or
18 deny the allegations of paragraph 29 of the Complaint and on that basis denies those
19 allegations.
20

21 30. Defendant does not possess sufficient knowledge or information to admit or
22 deny the allegations of paragraph 30 of the Complaint and on that basis denies those
23 allegations.
24

25 31. Defendant does not possess sufficient knowledge or information to admit or
26 deny the allegations of paragraph 31 of the Complaint and on that basis denies those
27 allegations.
28

1 32. Defendant does not possess sufficient knowledge or information to admit or
2 deny the allegations of paragraph 32 of the Complaint and on that basis denies those
3 allegations.
4

5 33. Defendant does not possess sufficient knowledge or information to admit or
6 deny the allegations of paragraph 33 of the Complaint and on that basis denies those
7 allegations.
8

9 34. Defendant does not possess sufficient knowledge or information to admit or
10 deny the allegations of paragraph 34 of the Complaint and on that basis denies those
11 allegations.
12

13 35. Defendant does not possess sufficient knowledge or information to admit or
14 deny the allegations of paragraph 35 of the Complaint and on that basis denies those
15 allegations.
16

17 36. Defendant does not possess sufficient knowledge or information to admit or
18 deny the allegations of paragraph 36 of the Complaint and on that basis denies those
19 allegations.
20

21 37. Defendant does not possess sufficient knowledge or information to admit or
22 deny the allegations of paragraph 37 of the Complaint and on that basis denies those
23 allegations.
24

25 38. Defendant admits the allegations contained in this paragraph 38.

26 39. Paragraph 39 of the Complaint calls for a legal conclusion as to whether it
27 is “privately held” and, therefore, does not require, nor is Defendant capable of
28

1 providing, a response. To the extent a legal conclusion is not required, Defendant does
2 not possess sufficient knowledge or information to admit or deny the allegations of
3 paragraph 39 of the Complaint and on that basis denies those allegations. Defendant does
4 admit that there are only a few shareholders.
5

6 40. Defendant admits the allegations of paragraph 40 of this Complaint.

7 41. Defendant denies the allegations contained in this paragraph 41.

8 42. Defendant denies the allegations contained in this paragraph 42.

9 43. The referenced document speaks for itself. Defendant has not seen or been
10 provided with a copy of the same and, and as result, Defendant does not possess
11 sufficient knowledge or information to admit or deny the allegations of paragraph 43 of
12 the Complaint and on that basis denies those allegations.
13

14 44. The referenced document speaks for itself. Defendant has not seen or been
15 provided with a copy of the same and, and as result, Defendant does not possess
16 sufficient knowledge or information to admit or deny the allegations of paragraph 44 of
17 the Complaint and on that basis denies those allegations.
18

19 45. The referenced document speaks for itself. Defendant has not seen or been
20 provided with a copy of the same and, and as result, Defendant does not possess
21 sufficient knowledge or information to admit or deny the allegations of paragraph 45 of
22 the Complaint and on that basis denies those allegations.
23

24 46. The referenced document speaks for itself. Defendant has not seen or been
25 provided with a copy of the same and, and as result, Defendant does not possess
26

1 sufficient knowledge or information to admit or deny the allegations of paragraph 46 of
2 the Complaint and on that basis denies those allegations.

3
4 47. The referenced document speaks for itself. Defendant has not seen or been
5 provided with a copy of the same and, and as result, Defendant does not possess
6 sufficient knowledge or information to admit or deny the allegations of paragraph 47 of
7 the Complaint and on that basis denies those allegations.

8
9 48. The referenced document speaks for itself. Defendant has not seen or been
10 provided with a copy of the same and, and as result, Defendant does not possess
11 sufficient knowledge or information to admit or deny the allegations of paragraph 48 of
12 the Complaint and on that basis denies those allegations.

13
14 49. The referenced document speaks for itself. Defendant has not seen or been
15 provided with a copy of the same and, and as result, Defendant does not possess
16 sufficient knowledge or information to admit or deny the allegations of paragraph 49 of
17 the Complaint and on that basis denies those allegations.

18
19 50. Defendant denies the allegation of paragraph 50 of the Complaint.
20 Defendant had and have no access to such accounts and never conducted any activities of
21 any kind through such accounts. Defendant merely made regular loan repayments into
22 that account as instructed.

23
24 51. Defendant denies the allegation of paragraph 51 of the Complaint.
25 Defendant is aware that Mr. Romanowski opened the referenced bank account on his own
26 behalf, but as Defendant had no access to such account, and were never provided details
27

1 about the use of such account, it is unaware of the activities undertaken through that bank
2 account, or by whom those activities were undertaken.

3
4 52. Defendant denies the allegation of paragraph 52 of the Complaint.

5 53. Defendant does not possess sufficient knowledge or information to admit or
6 deny the allegations of paragraph 53 of the Complaint and on that basis denies those
7 allegations.
8

9 54. Defendant does not possess sufficient knowledge or information to admit or
10 deny the allegations of paragraph 54 of the Complaint and on that basis denies those
11 allegations.
12

13 55. Defendant does not possess sufficient knowledge or information to admit or
14 deny the allegations of paragraph 55 of the Complaint and on that basis denies those
15 allegations.
16

17 56. Defendant denies the allegations of paragraph 56 of the Complaint.
18 Defendant is unaware who specifically opened the referenced bank account or when it
19 was opened, but is aware that the referenced bank account was not opened for or used by
20 Defendant. As Defendant had no access to such account, and was never provided details
21 about the use of such account, it is unaware of the activities undertaken through that bank
22 account, or by whom those activities were undertaken.
23

24 57. Defendant does not possess sufficient knowledge or information to admit or
25 deny the allegations of paragraph 57 of the Complaint and on that basis denies those
26 allegations.
27
28

1 58. Defendant does not possess sufficient knowledge or information to admit or
2 deny the allegations of paragraph 58 of the Complaint and on that basis denies those
3 allegations.
4

5 59. Defendant does not possess sufficient knowledge or information to admit or
6 deny the allegations of paragraph 59 of the Complaint and on that basis denies those
7 allegations.
8

9 60. Defendant does not possess sufficient knowledge or information to admit or
10 deny the allegations of paragraph 60 of the Complaint and on that basis denies those
11 allegations.
12

13 61. Defendant does not possess sufficient knowledge or information to admit or
14 deny the allegations of paragraph 61 of the Complaint and on that basis denies those
15 allegations.
16

17 62. Defendant does not possess sufficient knowledge or information to admit or
18 deny the allegations of paragraph 62 of the Complaint and on that basis denies those
19 allegations. Defendant is aware that the Romanowskis lived at Marsh Place, Oakland,
20 Calif.
21

22 63. The referenced document speaks for itself.

23 64. Defendant denies the allegations of paragraph 64 of the Complaint.

24 65. Defendant does not possess sufficient knowledge or information to admit or
25 deny the allegations of paragraph 65 of the Complaint and on that basis denies those
26 allegations.
27
28

1 66. Defendant denies the allegations of paragraph 66 of the Complaint.

2 67. Defendant does not possess sufficient knowledge or information to admit or
3 deny the allegations of paragraph 67 of the Complaint and on that basis denies those
4 allegations.
5

6 68. Defendant admits the allegations of Paragraph 68 of the Complaint.

7 69. Defendant does not possess sufficient knowledge or information to admit or
8 deny the allegations of paragraph 69 of the Complaint and on that basis denies those
9 allegations.
10

11 70. Defendant does not possess sufficient knowledge or information to admit or
12 deny the allegations of paragraph 70 of the Complaint and on that basis denies those
13 allegations.
14

15 71. Defendant does not possess sufficient knowledge or information to admit or
16 deny the allegations of paragraph 71 of the Complaint and on that basis denies those
17 allegations.
18

19 72. Defendant does not possess sufficient knowledge or information to admit or
20 deny the allegations of paragraph 72 of the Complaint and on that basis denies those
21 allegations.
22

23 73. Defendant does not possess sufficient knowledge or information to admit or
24 deny the allegations of paragraph 73 of the Complaint and on that basis denies those
25 allegations.
26

1 74. Defendant does not possess sufficient knowledge or information to admit or
2 deny the allegations of paragraph 74 of the Complaint and on that basis denies those
3 allegations.
4

5 75. The referenced document speaks for itself.

6 76. Defendant does not possess sufficient knowledge or information to admit or
7 deny the allegations of paragraph 76 of the Complaint and on that basis denies those
8 allegations.
9

10 77. The referenced document speaks for itself.

11 78. Defendant denies the allegations of paragraph 78 of the Complaint. The
12 Romanowskis had no access to Defendant's corporate funds or bank accounts. The
13 accounts referenced in paragraph 78 of the Complaint were not and are not Defendant's
14 bank accounts.
15

16 79. Defendant denies the allegations of paragraph 79 of the Complaint. The
17 funds in the referenced bank accounts were not corporate funds of N53 but, rather, the
18 Romanowskis' loan repayments, to wit: the Romanowskis personal funds.
19

20 80. Defendant does not possess sufficient knowledge or information to admit or
21 deny the allegations of paragraph 80 of the Complaint and on that basis denies those
22 allegations.
23

24 81. Defendant does not possess sufficient knowledge or information to admit or
25 deny the allegations of paragraph 81 of the Complaint and on that basis denies those
26 allegations.
27

1 82. Defendant denies the allegations of paragraph 82 of the Complaint. The
2 funds in the referenced bank accounts were not corporate funds of N53 but, rather, the
3 Romanowskis' loan repayments, to wit: the Romanowskis personal funds.
4

5 83. Defendant does not possess sufficient knowledge or information to admit or
6 deny the allegations of paragraph 83 of the Complaint and on that basis denies those
7 allegations.
8

9 84. Defendant does not possess sufficient knowledge or information to admit or
10 deny the allegations of paragraph 84 of the Complaint and on that basis denies those
11 allegations.
12

13 85. Defendant does not possess sufficient knowledge or information to admit or
14 deny the allegations of paragraph 85 of the Complaint and on that basis denies those
15 allegations.
16

17 86. Defendant does not possess sufficient knowledge or information to admit or
18 deny the allegations of paragraph 86 of the Complaint and on that basis denies those
19 allegations.
20

21 87. Defendant does not possess sufficient knowledge or information to admit or
22 deny the allegations of paragraph 87 of the Complaint and on that basis denies those
23 allegations.
24

25 88. Defendant does not possess sufficient knowledge or information to admit or
26 deny the allegations of paragraph 88 of the Complaint and on that basis denies those
27 allegations.
28

1 89. Defendant does not possess sufficient knowledge or information to admit or
2 deny the allegations of paragraph 89 of the Complaint and on that basis denies those
3 allegations.
4

5 90. Defendant does not possess sufficient knowledge or information to admit or
6 deny the allegations of paragraph 90 of the Complaint and on that basis denies those
7 allegations.
8

9 91. Defendant does not possess sufficient knowledge or information to admit or
10 deny the allegations of paragraph 91 of the Complaint and on that basis denies those
11 allegations.
12

13 92. Defendant does not possess sufficient knowledge or information to admit or
14 deny the allegations of paragraph 92 of the Complaint and on that basis denies those
15 allegations.
16

17 93. Defendant does not possess sufficient knowledge or information to admit or
18 deny the allegations of paragraph 93 of the Complaint and on that basis denies those
19 allegations.
20

21 94. Defendant does not possess sufficient knowledge or information to admit or
22 deny the allegations of paragraph 94 of the Complaint and on that basis denies those
23 allegations.
24

25 95. Defendant does not possess sufficient knowledge or information to admit or
26 deny the allegations of paragraph 95 of the Complaint and on that basis denies those
27 allegations.
28

1 96. Defendant denies the allegations of paragraph 96 of this Complaint.

2 97. Defendant denies the allegations of paragraph 97 of this Complaint.

3 98. Defendant does not possess sufficient knowledge or information to admit or
4 deny the allegations of paragraph 98 of the Complaint and on that basis denies those
5 allegations.
6

7 99. Defendant does not possess sufficient knowledge or information to admit or
8 deny the allegations of paragraph 99 of the Complaint and on that basis denies those
9 allegations.
10

11 100. Defendant does not possess sufficient knowledge or information to admit or
12 deny the allegations of paragraph 100 of the Complaint and on that basis denies those
13 allegations.
14

15 101. Defendant does not possess sufficient knowledge or information to admit or
16 deny the allegations of paragraph 101 of the Complaint and on that basis denies those
17 allegations.
18

19 102. Defendant does not possess sufficient knowledge or information to admit or
20 deny the allegations of paragraph 102 of the Complaint and on that basis denies those
21 allegations.
22

23 103. Paragraph 103 of the Complaint contains allegations to which no response
24 is required.
25

26 104. Paragraph 104 of the Complaint calls for a legal conclusion and, therefore,
27 does not require, nor is Defendant capable of providing, a response. To the extent a legal
28

1 conclusion is not required, Defendant does not possess sufficient knowledge or
2 information to admit or deny the allegations of paragraph 102 of the Complaint and on
3 that basis denies those allegations.
4

5 105. Paragraph 105 of the Complaint calls for a legal conclusion and, therefore,
6 does not require, nor is Defendant capable of providing, a response. To the extent a legal
7 conclusion is not required, Defendant does not possess sufficient knowledge or
8 information to admit or deny the allegations of paragraph 105 of the Complaint and on
9 that basis denies those allegations.
10

11 106. Paragraph 106 of the Complaint contains allegations to which no response
12 is required.
13

14 107. Defendant denies the allegations of paragraph 107 of the Complaint.

15 108. Defendant denies the allegations of paragraph 108 of the Complaint.

16 109. Defendant denies the allegations of paragraph 109 of the Complaint.

17 110. Defendant denies the allegations of paragraph 110 of the Complaint.

18 111. Defendant denies the allegations of paragraph 111 of the Complaint.

19 112. Defendant does not possess sufficient knowledge or information to admit or
20 deny the allegations of paragraph 112 of the Complaint and on that basis denies those
21 allegations.
22

23 113. Defendant does not possess sufficient knowledge or information to admit or
24 deny the allegations of paragraph 113 of the Complaint and on that basis denies those
25 allegations.
26
27
28

1 114. Defendant denies the allegations of paragraph 114 of the Complaint.

2 115. Defendant denies the allegations of paragraph 115 of the Complaint.

3 116. Defendant denies that it is a corporate fiction. There, Defendant denies the
4 allegations of paragraph 116 of the Complaint.
5

6 117. Defendant denies the allegations of paragraph 117 of the Complaint.

7 118. Paragraph 118 of the Complaint contains allegations to which no response
8 is required.
9

10 119. Paragraph 119 of the Complaint calls for a legal conclusion and, therefore,
11 does not require, nor is Defendant capable of providing, a response. To the extent a legal
12 conclusion is not required, Defendant does not possess sufficient knowledge or
13 information to admit or deny the allegations of paragraph 119 of the Complaint and on
14 that basis denies those allegations.
15

16 120. Paragraph 120 of the Complaint calls for a legal conclusion and, therefore,
17 does not require, nor is Defendant capable of providing, a response. To the extent a legal
18 conclusion is not required, Defendant does not possess sufficient knowledge or
19 information to admit or deny the allegations of paragraph 120 of the Complaint and on
20 that basis denies those allegations.
21

22 121. Paragraph 121 of the Complaint calls for a legal conclusion and, therefore,
23 does not require, nor is Defendant capable of providing, a response. To the extent a legal
24 conclusion is not required, Defendant does not possess sufficient knowledge or
25
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28

1 information to admit or deny the allegations of paragraph 121 of the Complaint and on
2 that basis denies those allegations.

3
4 122. Paragraph 122 of the Complaint calls for a legal conclusion and, therefore,
5 does not require, nor is Defendant capable of providing, a response. To the extent a legal
6 conclusion is not required, Defendant does not possess sufficient knowledge or
7 information to admit or deny the allegations of paragraph 122 of the Complaint and on
8 that basis denies those allegations.
9

10 123. Paragraph 123 of the Complaint calls for a legal conclusion and, therefore,
11 does not require, nor is Defendant capable of providing, a response. To the extent a legal
12 conclusion is not required, Defendant does not possess sufficient knowledge or
13 information to admit or deny the allegations of paragraph 123 of the Complaint and on
14 that basis denies those allegations.
15

16
17 124. Paragraph 124 of the Complaint calls for a legal conclusion and, therefore,
18 does not require, nor Is Defendant capable of providing, a response. To the extent a legal
19 conclusion is not required, Defendant does not possess sufficient knowledge or
20 information to admit or deny the allegations of paragraph 124 of the Complaint and on
21 that basis denies those allegations.
22

23 125. Paragraph 125 of the Complaint contains allegations to which no response
24 is required.
25

26 126. Paragraph 126 of the Complaint calls for a legal conclusion and, therefore,
27 does not require, nor Is Defendant capable of providing, a response. To the extent a legal
28

1 conclusion is not required, Defendant does not possess sufficient knowledge or
2 information to admit or deny the allegations of paragraph 126 of the Complaint and on
3 that basis denies those allegations.
4

5 127. Paragraph 127 of the Complaint calls for a legal conclusion and, therefore,
6 does not require, nor Is Defendant capable of providing, a response. To the extent a legal
7 conclusion is not required, Defendant does not possess sufficient knowledge or
8 information to admit or deny the allegations of paragraph 127 of the Complaint and on
9 that basis denies those allegations.
10

11 128. Paragraph 128 of the Complaint calls for a legal conclusion and, therefore,
12 does not require, nor Is Defendant capable of providing, a response. To the extent a legal
13 conclusion is not required, Defendant does not possess sufficient knowledge or
14 information to admit or deny the allegations of paragraph 128 of the Complaint and on
15 that basis denies those allegations.
16

17 129. Paragraph 129 of the Complaint calls for a legal conclusion and, therefore,
18 does not require, nor Is Defendant capable of providing, a response. To the extent a legal
19 conclusion is not required, Defendant does not possess sufficient knowledge or
20 information to admit or deny the allegations of paragraph 129 of the Complaint and on
21 that basis denies those allegations.
22

23 130. Paragraph 130 of the Complaint calls for a legal conclusion and, therefore,
24 does not require, nor Is Defendant capable of providing, a response. To the extent a legal
25 conclusion is not required, Defendant does not possess sufficient knowledge or
26
27
28

1 information to admit or deny the allegations of paragraph 130 of the Complaint and on
2 that basis denies those allegations.

3
4 JURY TRIAL DEMANDED

5 **AFFIRMATIVE DEFENSES**

6 As separate Affirmative Defenses to the claims asserted in the Complaint,
7 Defendant alleges as follows:

8
9 FIRST AFFIRMATIVE DEFENSE

10 As a first, separate, and affirmative defense, Defendant alleges that the Complaint
11 and each cause of action contained in the Complaint, fails to state facts sufficient to
12 constitute a cause of action against Defendant.

13
14 SECOND AFFIRMATIVE DEFENSE

15 As a second, separate and affirmative defense, Defendant alleges that the
16 Complaint and each cause of action contained in the Complaint, is barred to the extent
17 that it is based on allegations that Defendant violated any laws because Defendant did
18 not violate any laws.

19
20 THIRD AFFIRMATIVE DEFENSE

21 As a third, separate and affirmative defense, Defendant alleges that the Complaint
22 and each cause of action contained in the Complaint, is barred by laches.

23
24 FOURTH AFFIRMATIVE DEFENSE

25 As a fourth, separate and affirmative defense, Defendant alleges that the
26 Complaint and each cause of action contained in the Complaint, is barred because
27

1 Defendant's conduct was and is justified by legitimate business motives, purposes, and
2 reasons and within the course and scope of its employment duties, if any.

3
4 FIFTH AFFIRMATIVE DEFENSE

5 As a fifth, separate and affirmative defense, Defendant alleges that the Complaint
6 and each cause of action contained in the Complaint, is barred by the doctrine of
7 estoppel.
8

9 SIXTH AFFIRMATIVE DEFENSE

10 As a sixth, separate and affirmative defense, Defendant alleges that the Complaint
11 and each cause of action contained in the Complaint, is barred because any damages were
12 solely the result of Plaintiff's own actions or the actions or failure to act by others and not
13 as a result of any action or omission by Defendant.
14

15 SEVENTH AFFIRMATIVE DEFENSE

16 As a seventh, separate and affirmative defense, Defendant alleges that the
17 Complaint and each cause of action contained in the Complaint, is barred because
18 Plaintiff suffered no injury, loss, or damages as a result of Defendant's actions or
19 omissions.
20
21

22 EIGHTH AFFIRMATIVE DEFENSE

23 As an eighth, separate and affirmative defense, Defendant alleges that they are not
24 liable to Plaintiff because they are not responsible for the taxes Plaintiff claims are due.
25

26 NINTH AFFIRMATIVE DEFENSE
27
28

1 As a ninth, separate and affirmative defense, Defendant alleges that the Complaint
2 and each cause of action contained in the Complaint, is barred because Plaintiff failed to
3 mitigate any damages it may have suffered and are, therefore, barred from recovery of
4 damages from Defendant.
5

6 TENTH AFFIRMATIVE DEFENSE
7

8 As a tenth, separate and affirmative defense, Defendant alleges that the Complaint
9 and each cause of action contained in the Complaint, is barred because Defendant
10 committed no wrongful act as to Plaintiff and, therefore, are not responsible for the
11 damages Plaintiff alleges in its Complaint.
12

13 ELEVENTH AFFIRMATIVE DEFENSE
14

15 As an eleventh, separate and affirmative defense, Defendant alleges that they lack
16 sufficient knowledge or information upon which to form a belief as to whether they might
17 have additional, as yet unstated, separate defenses available. Defendant therefore reserve
18 the right to amend this Answer to add, delete, or modify defenses based upon legal
19 theories that may or will be divulged through clarification of Plaintiff's vague Complaint,
20 through discovery, or further legal analysis of Plaintiff's positions in this litigation.
21

22 WHEREFORE, Defendant request that judgment be entered against Plaintiff and
23 in favor of Defendant as follows:
24

25 A. On each cause of action contained within the Complaint, that Plaintiff take
26 nothing;
27

28 B. Attorney's fees and costs incurred in defending against the Complaint; and

1 C. For such other relief as this Court deems just and proper.

2 JURY TRIAL DEMANDED

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5 

6
7 Dated: February 2, 2024

8 By: _____
9 Miles Archer Woodlief
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13 phone: (415) 730-3032
14 facsimile:(415) 366-2956
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CERTIFICATE OF SERVICE

I, Miles Archer Woodlief, hereby certify that, on February 2, 2024, I electronically filed ANSWER ON BEHALF OF DEFENDANT NUTRITION 53, INC. with the Clerk for the United States District Court for the Northern District of California using the CM/ECF system, which shall send electronic notification to counsel of record.



Dated: February 2, 2024

By: _____
Miles Archer Woodlief
Attorney at Law
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